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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.        | CONFIRMATION NO.       |
|---|-------------|----------------------|----------------------------|------------------------|
| 09/829,701  | 04/10/2001  | Rajarshi Das         | YOR20010151US1             | 1772                   |
| 35195 7590 03/07/2007<br>FERENCE & ASSOCIATES<br>409 BROAD STREET<br>PITTSBURGH, PA 15143 |             |                      | EXAMINER<br>KESACK, DANIEL |                        |
|   |             |                      | ART UNIT<br>3691           | PAPER NUMBER           |
|   |             |                      | MAIL DATE<br>03/07/2007    | DELIVERY MODE<br>PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

|  |                                      |                                   |  |
|--|--------------------------------------|-----------------------------------|--|
| <p align="center"><b>Advisory Action</b><br/><b>Before the Filing of an Appeal Brief</b></p> | <b>Application No.</b><br>09/829,701 | <b>Applicant(s)</b><br>DAS ET AL. |  |
|  | <b>Examiner</b><br>Dan Kesack        | <b>Art Unit</b><br>3691           |  |

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 17 January 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: \_\_\_\_\_.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

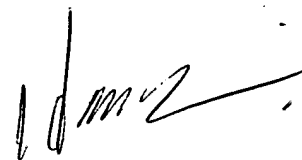
8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.  
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
 13. ☒ Other: See Continuation Sheet.

Continuation of 13. Other: Regarding Applicant's argument against the rejection of claims 4 and 29 under 35 U.S.C 112, 2nd paragraph, Examiner respectfully disagrees. Examiner maintains that one of ordinary skill in the art would not be able to ascertain clear and definite limits set forth by the phrase "a significant change in parameters". The implication of the word "significant" would differ depending on the parameter being described, and the intentions of the user. For example, where a user is buying a single item, a increase in cost of 10% may be insignificant, while a user buying the same item in bulk may consider a cost increase of 2% to be significant. Thus, while the meaning of "significant" may be discernable to an individual user at the time of operation of the invention, the claim language does not clearly set forth the metes and bounds of patent protection desired.

Regarding Applicant's inclusion of the phrase "without user intervention" in independent claims 1, 24, 25, 27, and 46-49, the additional claim language requires further consideration and searching. By Applicant's own admission, "there are embodiments of the instant invention [that] can also be triggered by a user or utilizing some sort of user intervention" (Remarks filed 1/17/07, page 17). As such, broad interpretation of the phrase "automatically" being consistent with proper examining procedure, the field of search was not specifically directed towards the "augmenting" step being done "without user intervention".



HANI M. KAZIMI  
PRIMARY EXAMINER